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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,898	01/23/2004	Patrick M. Baudisch	MSFT121882	7772
26389 7590 12/30/2008 CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347				
EXAMINER				
WIENER, ERIC A				
ART UNIT		PAPER NUMBER		
2179				
MAIL DATE		DELIVERY MODE		
12/30/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/763,898

**Applicant(s)**

BAUDISCH ET AL.

**Examiner**

Eric Wiener

**Art Unit**

2179

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 7-9, 11, 13, 14, 16 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9, 11, 13, 14, 16, and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/14/2008 has been entered.
2. Claims 1 – 3, 7 – 9, 11, 13, 14, 16, and 20 are pending. Claims 1, 8, and 14 are the independent claims. Claims 1 – 3, 8, and 14 are the amended claims. Claims 4 – 6, 10, 12, 15, and 17 – 19 have been cancelled. Claims 1 – 3, 7 – 9, 11, 13, 14, 16, and 20 have been rejected by the Examiner.

### **Claim Rejections - 35 USC § 101**

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 8, 9, 11, and 13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claim 8 is nonstatutory, because the language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological

environment or machine that would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. A “computer-readable medium bearing computer-executable instructions” is claimed, wherein [0029] and [0030] of the present Specification recite that computer-readable media may comprise communications media, wherein communications media are disclosed as possibly comprising carrier waves or other wireless media, such as acoustic, radio frequency, or infrared media. Such forms of communications media are not statutory forms of subject matter under 35 U.S.C. 101, because they do not include a tangible hardware element to produce a tangible result, and are therefore rejected under 35 U.S.C. 101.

Claims 9, 11, and 13 are nonstatutory for the same reason as claim 8, because they depend from claim 8 and do not further overcome the present 35 U.S.C. 101 issues of claim 8.

Appropriate correction is required.

### **Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 7, 8, 13, 14, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,661,502 issued to Xuejiang Cheng.

**As per independent claims 1 and 8**, Xuejiang Cheng discloses *a method for enhancing a mouse cursor displayed on a computer display and a computer readable medium* (column 3, lines 15 – 24) *for carrying out said method, in which said method comprises:*

- *obtaining a current mouse cursor speed* (column 4, lines 20 – 37);
- *determining whether the current mouse cursor speed exceeds a predetermined threshold* (column 3, line 66 – column 4, line 10); *and if so:*
  - o *generating a mouse path between an actual current and an actual previous mouse cursor locations* (column 4, lines 15 – 54; column 5, lines 29 – 53; and Fig. 3);
  - o *determining at least one additional mouse cursor location on the generated mouse path between the actual current and the actual previous mouse cursor locations on the generated mouse path* (column 4, line 55 – column 5, line 9; column 5, lines 29 – 53; and Fig. 3); *and*
  - o *displaying a mouse cursor image at each additional determined mouse cursor location on the generated mouse path in addition to displaying a mouse cursor image at the actual current and actual previous mouse cursor locations* (column 4, line 55 – column 5, line 9; column 5, lines 29 – 53; and Fig. 3), wherein, as can be seen in Fig. 3, when the speed is fast such as the lines of 302, additional cursor image locations are effectively determined and displayed in line 302a corresponding to the enhanced mouse track, because the x's representing the enhanced mouse cursor images outnumber the o's representing the regular mouse cursor images. Furthermore, as can be seen

from Fig. 3, the endpoints of the “actual mouse track” correspond to the endpoints of the “corrected mouse track,” wherein, for example, if one endpoint corresponds to an actual current mouse cursor location, it thus follows that the other endpoint corresponds to an actual previous mouse cursor location. Therefore, it can be seen from Fig. 3 that the least one additional determined mouse cursor locations are displayed in addition to displaying an actual current and an actual previous mouse cursor location.

**As per independent claim 14,** Xuejiang Cheng discloses *a method for enhancing a mouse cursor displayed on a computer display comprising:*

- *obtaining mouse cursor information relating to the mouse cursor during the mouse cursor's display cycle (column 3, line 66 – column 4, line 37), the mouse cursor information including the mouse cursor's current speed (column 4, lines 20 – 37);*
- *generating a mouse path between an actual current location of the mouse cursor and an actual previous location of the mouse cursor (column 4, lines 15 – 54; column 5, lines 29 – 53; and Fig. 3);*
- *determining at least one additional mouse cursor location on the generated mouse path between the actual previous locations and the actual current mouse cursor locations on the generated mouse path (column 4, line 55 – column 5, line 9; column 5, lines 29 – 53; and Fig. 3); and*
- *displaying a mouse cursor image at each additional determined mouse cursor location on the generated mouse path in addition to displaying a mouse cursor image at the actual current and actual previous mouse cursor locations (column 4, line 55 –*

column 5, line 9; column 5, lines 29 – 53; and Fig. 3), wherein, as can be seen in Fig. 3, when the speed is fast such as the lines of 302, additional cursor image locations are effectively determined and displayed in line 302a corresponding to the enhanced mouse track, because the x's representing the enhanced mouse cursor images outnumber the o's representing the regular mouse cursor images. Furthermore, as can be seen from Fig. 3, the endpoints of the "actual mouse track" correspond to the endpoints of the "corrected mouse track," wherein, for example, if one endpoint corresponds to an actual current mouse cursor location, it thus follows that the other endpoint corresponds to an actual previous mouse cursor location. Therefore, it can be seen from Fig. 3 that the least one additional determined mouse cursor locations are displayed in addition to displaying an actual current and an actual previous mouse cursor location.

**As per claim 2**, and taking into account the rejection of claim 1, Xuejiang Cheng further discloses that *the mouse cursor image displayed at each additional determined mouse cursor location on the generated mouse path between the actual current and the actual previous mouse cursor locations is an enhanced mouse cursor image* (column 4, line 20 – column 5, line 9 and Fig. 3), wherein the output of coordinates corresponds to displaying the mouse cursor image on a computer display at those coordinates, further wherein it has been interpreted that a cursor image is "enhanced" by allowing said image to correspond to a corrected display of its track.

**As per claims 7, 13, and 20**, and taking into account the rejection of claims 2, 8, and 14, respectively, Xuejiang Cheng further discloses that *the at least one additional cursor location is*

*distributed along the mouse path in a non-linear progression according to the mouse cursor speed (column 5, lines 7 – 9).*

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 3, 9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,661,502 issued to Xuejiang Cheng in view of JP 05073257 A issued to Kensuke.

**As per claims 3, 9, and 16**, Xuejiang Cheng discloses the computer-readable medium and methods of claims 2, 8, and 14, respectively. Xuejiang Cheng does not explicitly disclose that generating the enhanced mouse cursor comprises sizing the enhanced mouse cursor image as a function of the current mouse cursor speed.



However, in an analogous art, Kensuke discloses that generating an enhanced mouse cursor comprises *sizing an enhanced mouse cursor image as a function of the current mouse cursor speed* ([0009]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Kensuke into the method and computer-readable medium of Xuejiang Cheng to develop a method and computer-readable medium for sizing a mouse cursor in a continuous scale and immediate manner according to the current mouse cursor speed. The motivation to combine is obvious in that both inventions are for enhancing a mouse cursor. The invention of Xuejiang Cheng intends to improve use by allowing the mouse cursor to be more smoothly displayed, thus allowing a user to more easily see where the cursor is moving. Likewise, Kensuke intends to also make a cursor easier to visually recognize through smoothly changing the size of the cursor.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,661,502 issued to Xuejiang Cheng in view of “Animation: From Cartoons to the User Interface” by Bay-Wei Chang.

**As per claim 11**, Xuejiang Cheng discloses the computer-readable medium of claim 8. Xuejiang Cheng does not explicitly disclose generating a motion-blur effect for the mouse cursor according to the current mouse cursor speed along the generated mouse path.

However, in an analogous art, Bay-Wei Chang discloses *generating a motion-blur effect for the mouse cursor according to the current mouse cursor speed along the generated mouse path* (pages 47 – 49, “2.1.1 Solidity: Motion blur”). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Bay-Wei

Chang into the computer-readable medium of Xuejiang Cheng to develop a computer-readable medium for generating an enhanced mouse cursor comprising generating a motion-blur effect for the mouse cursor according to the current mouse cursor speed along a determined generated mouse path. The motivation to combine is obvious in that both the invention of Xuejiang Cheng and the teaching of Bay-Wei Chang are for enhancing a mouse cursor. The invention of Xuejiang Cheng intends to improve use by allowing the mouse cursor to be more smoothly displayed, thus allowing a user to more easily see where the cursor is moving. Likewise, as disclosed in the last three lines of page 53, column 1 of “Animation: From Cartoons to the User Interface,” the teaching of Bay-Wei Chang intends to reduce the time it takes a user to visually comprehend an action.

***Response to Arguments***

11. Applicant’s arguments filed on 8/14/2008 have been fully considered but they are not persuasive.

The Applicant has argued that “Cheng does not explicitly or implicitly teach that at least one additional cursor location determined on the generated mouse path is between the actual current and the actual previous mouse cursor locations.” The Examiner respectfully disagrees. Please refer to the new rejections of claims 1, 8, and 14, *supra*, which address this newly amended limitation, as well as to Cheng, column 5, lines 10 – 53, wherein it is explicitly disclosed that at least one additional cursor location determined on the generated mouse path is between the actual current and the actual previous mouse cursor locations, because the “current device coordinates” and “previous device coordinates” are used in the determining step, wherein

the “current device coordinates” and “previous device coordinates” have been interpreted as being actual coordinates.

The Applicant has argued that Cheng does not teach “displaying a mouse cursor image at each additional determined mouse cursor location on the generated mouse path in addition to displaying a mouse cursor image at the actual current and actual previous mouse cursor locations.” The Examiner respectfully disagrees. Please refer to the new rejections of claims 1, 8, and 14, *supra*, which address this newly amended limitation. Furthermore, as can be seen from Fig. 3 of Cheng, the endpoints of the “actual mouse track” correspond to the endpoints of the “corrected mouse track,” wherein, for example, if one endpoint corresponds to an actual current mouse cursor location, it thus follows that the other endpoint corresponds to an actual previous mouse cursor location. Therefore, it can be seen from Fig. 3 of Cheng that the least one additional determined mouse cursor locations are displayed in addition to displaying an actual current and an actual previous mouse cursor location.

### ***Conclusion***

14. It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

***15. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The cited documents represent the general state of the art.***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Wiener whose telephone number is 571-270-1401. The examiner can normally be reached on Monday through Thursday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Eric Wiener/

Examiner, Art Unit 2179